

John R. Barhoum, WSBA No. 42776
Email: john.barhoum@chockbarhoum.com
Chock Barhoum LLP
121 SW Morrison Street, Suite 500
Portland, OR 97204
Telephone: (503) 233-3000
Fax: (503) 954-3321
Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

PETER S. KIEMELE, a single man,

Plaintiff,

v.

WALMART INC., a foreign corporation
organized under the laws of the State of
Delaware,

Defendant.

Civil Case No.

**NOTICE OF REMOVAL OF
ACTION**

JURY TRIAL DEMANDED

TO: THE CLERK OF THE ABOVE ENTITLED COURT:

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1441, 1446 and 1332(2), Walmart, Inc. ("Defendant") removes this action from the Superior Court of the State of Washington for the County of Clark to the United States District Court for the Western District of Washington in Tacoma, Washington.

RELEVANT FACTS

On December 3, 2019, Plaintiff served Defendant with a Summons and Complaint captioned *Peter S. Kiemele v. Walmart, Inc.*, Case No. 19-2-03594-06, filed in the Superior Court for the State of Washington for the County of Clark. See Declaration of John R. Barhoum ("Barhoum Decl."), ¶2. Copies of the Summons and Complaint are attached hereto as Exhibits A

NOTICE OF REMOVAL OF ACTION NOTICE OF REMOVAL OF ACTION - 1 **CHOCK
BARHOUM llp**

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t: 503.223.3000 | f:503.954.3321

1 and B, respectively. *Id.* Defendant filed an answer to Plaintiff's complaint on January 14, 2020,
 2 attached hereto as Exhibit C. Defendants also served Plaintiff with a request for statement of
 3 damages and a first set of discovery requests on December 18 and 19, 2020, respectively, attached
 4 here to as Exhibits D and E, respectively. *Id.* The amount in controversy is in excess of \$75,000.
 5 *See Barhoum Decl.*, ¶5, Ex. F.

6 These documents, taken together, constitute all process, pleadings, and orders served on or by
 7 Defendant in that action up to the present date. *Id.*

8 **GROUND FOR REMOVAL**

9 Pursuant to 28 U.S.C. § 1441(a), a defendant may remove an action filed in the state court
 10 to the United States District Court if the district court has diversity jurisdiction under 28 U.S.C. §
 11 1332(a)(1). If the case started by the initial pleading is not removable, a notice of removal may be
 12 filed within thirty days after receipt by the defendant, through service or otherwise, a copy of an
 13 amended pleading, motion, order or other paper from which it may first be ascertained that the
 14 case is one which is or has become removable. 28 U.S.C. § 1446(b)(3).

15 Plaintiff's claims for relief against defendant exceed \$75,000. Decl. of Barhoum, ¶ 5, Ex.
 16 F. That confirmation was within 30-days of filing Defendant's Notice of Removal. Additionally,
 17 Plaintiff and Defendant reside in different states. Upon information and belief, Plaintiff resides in
 18 Washington. Compl. ¶ 1.1. Defendant is a Delaware foreign business corporation registered in the
 19 State of Washington. Decl. of Barhoum, ¶ 6.

20 This is an action over which the United States District Court has diversity jurisdiction
 21 pursuant to 28 U.S.C. § 1332(a)(1).

22 **TIMELINESS AND PROCEDURE**

23 This Notice of Removal was filed within thirty days after Defendant first ascertained that
 24 the case is one which has become removable. 28 U.S.C. § 1446(b)(3). Therefore, removal is timely.

25 No further proceedings have occurred in the Superior Court of the State of Washington for
 26 the County of Clark, other than those mentioned, as of the date of this removal other as outlined

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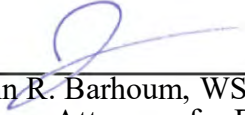
1 herein. *See* Decl. of Barhoum, ¶ 4.

2 Counsel for Defendant will file a copy of this Notice of Removal with the Clerk of the
3 Superior Court of the State of Washington for the County of Clark and will give notice of same to
4 Plaintiff as required by 28 U.S.C. § 1446(d).

5 WHEREFORE, Defendant prays that this action be removed from the Superior Court for
6 the County of Clark and placed on the docket of the United States District Court for the Western
7 District of Washington in the Tacoma Division.

8 DATED this 17th day of January, 2020.

9 **CHOCK BARHOUM LLP**

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13 John R. Barhoum, WSBA No. 42776
14 Attorneys for Defendant
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **NOTICE OF REMOVAL OF ACTION**

JURY TRIAL DEMANDED was served on:

Ryan P. Kurtz
Jackson, Jackson & Kurtz, Inc. P.S.
704 East Main Street, Suite 102
Battle Ground, WA 98604
Attorneys for Plaintiff

- ☐ By hand delivery
- ☒ By first-class mail*
- ☐ By overnight mail
- ☐ By facsimile transmission
- Fax #:
- ☐ By e-mail:
ryankurtz@jjk-law.com

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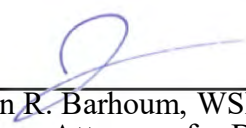
CERTIFICATE OF SERVICE - 1

CHOCK BARHOUM llp
121 SW Morrison St., Suite 500
Portland, OR 97204
t: 503.223.3000 | f:503.954.3321

*With first-class postage prepaid and deposited in Portland, Oregon.

DATED this 17th day of January, 2020.

CHOCK BARHOUM LLP



John R. Barhoum, WSBA No. 42776
Attorneys for Defendant